

WILLIAM P. BARR
Attorney General
ROBERT S. BREWER, JR.
United States Attorney
MICHAEL G. WHEAT, CBN 118598
JOSEPH J.M. ORABONA, CBN 223317
JANAKI S. GANDHI, CBN 272246
COLIN M. MCDONALD, CBN 286561
Special Attorneys to the Attorney General
United States Attorney's Office
880 Front Street, Room 6293
San Diego, CA 92101
619-546-8437/6695/8817/9144
michael.wheat@usdoj.gov

Attorneys for the United States of America

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

KATHERINE P. KEALOHA, et al.,

Defendants.

Cr. No. 17-00582 JMS-WRP

SUPPLEMENTAL JURY
INSTRUCTIONS REGARDING THE
FOURTH AMENDMENT

The United States proposes the following Fourth Amendment instruction to accompany the deprivation of civil rights instruction:

The Fourth Amendment of the United States Constitution generally prohibits entry into a person's home or car—whether to make an arrest or to search for specific objects—without a warrant. The Fourth Amendment also generally prohibits intentionally seizing a person's property without a warrant. The Fourth Amendment also generally prohibits arrests without a warrant, unless an officer has probable cause

to believe that an individual committed a crime. A false arrest or false imprisonment violates the Fourth Amendment.

A defendant does not have to personally commit the unlawful search, seizure, or arrest. It is sufficient if a defendant willfully caused an act to be done which if directly performed by him or another would constitute an unlawful search, seizure, or arrest.

Illinois v. Rodriguez, 497 U.S. 177, 181 (1990); *Kentucky v. King*, 563 U.S. 452, 459-60 (2011); *Payton v. New York*, 445 U.S. 573, 585 (1980); *Terry v. Ohio*, 392 U.S. 1, 9 (1968); *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001); 18 U.S.C. § 2(b); *United States v. Haeng Hwa Lee*, 602 F.3d 974, 976 (“[A] principal is guilty of an offense if she used ‘an innocent pawn to cause an act to be done which, if performed by the principal, would be unlawful.’”).

Dated: June 21, 2019.

Respectfully submitted,

WILLIAM P. BARR
United States Attorney General
ROBERT S. BREWER, JR.
United States Attorney

/s/ Colin M. McDonald
MICHAEL G. WHEAT
JOSEPH J.M. ORABONA
JANAKI S. GANDHI
COLIN M. MCDONALD
Special Attorneys to the Attorney General

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,
Plaintiff,
v.
MINH-HUNG NGUYEN (4),
GORDON SHIRAISHI (5),
Defendants.

Cr. No. 17-00582 JMS-WRP
CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that:

I, Colin M. McDonald, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, CA 92101-8893.

I am not a party to the above-entitled action. I have caused service of the foregoing on all parties in this case by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 21, 2019.

/s/ Colin M. McDonald
COLIN M. MCDONALD